

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

This is a petition for a writ of habeas corpus brought *pro se* by Petitioner pursuant to 28 U.S.C. § 2254 challenging the constitutional validity of his state conviction. Petitioner's earlier habeas petition was transferred to this Court and filed under Case No. C:03-cv-0184 JSW (PR). The petition was denied on the merits on February 11, 2005. Petitioner now files a separate habeas petition raising what appear to be different claims regarding the same conviction as his earlier petition filed in this Court.

The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") was signed into law on April 24, 1996. Under AEDPA, a district court must dismiss claims presented in a second or successive habeas petition challenging the same conviction and sentence that were raised in a previous petition. *See* 28 U.S.C. § 2244(b)(1); *Babbitt v. Woodford*, 177 F.3d 744, 745-46 (9th Cir. 1999). Additionally, a district court must dismiss any new claims raised in a successive petition unless the petitioner received an order from the court of appeals authorizing the district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A).

1 Here, the instant petition challenges the same conviction and sentence as the
2 previous petition decided by this Court in 2005. Petitioner has not presented an order
3 from the court of appeals authorizing the Court to consider these claims. Accordingly,
4 the Court must dismiss the instant petition in its entirety. Petitioner is free to seek such
5 an order from the United States Court of Appeals for the Ninth Circuit. *See*, 28 U.S.C. §
6 2244(b)(3)(A).

7 **CONCLUSION**

8 For the forgoing reasons, the petition for writ of habeas corpus is DISMISSED as
9 a second and successive petition. The Clerk shall close the file and enter judgment in
10 this matter.

11 IT IS SO ORDERED.

12 DATED: April 18, 2007

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15 JEFFREY S. WHITE
United States District Judge